

**March 9, 2008**

**Reply Comments to**

**Docket 07-51**

**Exclusive Service Contracts for Provision of Video Service  
In Multiple Dwelling Units and Other  
Real Estate Developments**

***My comment addresses no. 65, "bulk billing" arrangements. I am a resident of a 2 year old community of custom homes called Tropical Cove, in Ft Myers Florida. The HOA was "turned over" by the developer in December, 2007. In January, 2008, the homeowners discovered the developer had signed a 10 year exclusive contract in 2005 with Comcast, the franchisee in Lee County. The homeowners' cost is built into the HOA fee, and started at \$ 38.71 per homeowner, plus taxes. The current cost is \$ 50 per month for Total Basic- this "bulk billing" cost is no bargain for the current homeowners who could obtain a cheaper cost from Comcast's current offering of bundled internet, telephony, and video than if they purchased internet and phone in addition to the "bulk billing" rate. The developers ( and there are many in FL ) who negotiate on behalf of owners have little or no incentive – unless they take a piece of the action- to negotiate a favorable, competitive rate. Therefore, property owners who buy into developments have no knowledge that they have virtually no leverage to negotiate specific prices, services, and channels from multiple-video providers.***

***In fact, upon review by homeowners, they may find that satellite dishes are allowed by the Homeowner association (as in the case of our HOA), leading purchasers to believe they can opt for competitive services. However, in reality, the bulk billing rate built into the HOA provides a significant barrier to competition since residents do not, and cannot in many instances, pay for two video services. The cost of the "cable bulk billing" to each homeowner is absolutely the functional equivalent of a prohibition on the use of competitive services by homeowners.***

***In addition, homeowner associations under Florida law are severely limited in their ability to opt out of such agreements, after there is a***

***transfer in ownership from the developer to the new homeowner, further limiting the potential for the HOA's to manage their finances (holding down HOA fees) by enabling homeowners to select competitive video services by "opting out" of the agreement, individually or severally. This is an intolerable situation where homeowners have no choice as to who provides them their video services, except the monopoly provider selected by the developer.***

***These arrangements violate the spirit, and the intent of antitrust laws, and deny consumers the defacto ability to obtain competitive choices in the provision of video services. In addition, in our particular case, the contract executed between the developer and Comcast grants Comcast the exclusive right to construct, install, operate and maintain the "System" on the premises -( the homes) and to deliver the Services to the premises. There is no ability for any other cable company to offer competitive services to homeowners without incurring substantial construction costs to the community, which is a de facto impediment to competition.***

***In addition, Home Owner Associations constrained by such "bulk billing" arrangements are economically challenged as more homeowners go into foreclosure, and remaining homeowners who are current on their fees have to absorb the pro-rata cable costs for homes in foreclosure. The inability for homeowners who are current in paying HOA fees, and who required to pay, through higher assessments, the share of expenses not being paid by homes in foreclosure, could be mitigated if they (homeowners) had the ability to select more competitively priced video programming packages by opting out, (or if their HOA could terminate such bulk agreements made by a developer) of a "bulk billing" arrangement, which may be neither competitive nor desired by the homeowner.***

***Our situation is not unique in the State of Florida, and no doubt across the United States. These contracts are pernicious, economically injurious to consumers, and must be prohibited immediately by the FCC.***

***Richard Pettinato,  
Ft Myers, Fl***